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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 ANDRE JONES,

12 Plaintiff,

13 vs.

14 CALIFORNIA DEPARTMENT OF
15 CORRECTIONS AND
16 REHABILITATION; RICHARD J.
17 DONOVAN CORRECTIONAL FACILITY;
18 CALIFORNIA STATE PRISON, LOS
19 ANGELES COUNTY/LANCASTER
20 (LAC); B. CASH, individually; M. DAVIS,
21 an individual; WATSON, individually;
22 RIDGEWAY, individually; K. CRUZ,
23 individually; K. BRADFORD, individually;
24 DOTTAVIANO, individually; J. HOMER,
25 individually; CAPT. CORTEZ, individually;
26 CAPTAIN MORRERO, individually;
27 CAPTAIN M. CAVAZO, individually; and
28 DOES 1 - 100,

Defendants.

CASE NO: 11-CV-296-IEG (BLM)

ORDER:

**(1) DENYING MOTION FOR
EXTENSION OF TIME TO FILE
AMENDED COMPLAINT, and**

**(2) DIRECTING U.S. MARSHAL TO
EFFECT SERVICE OF SUMMONS
AND FIRST AMENDED
COMPLAINT PURSUANT TO FED.
R. CIV. P. 4(c)(2) AND 28 U.S.C.
§ 1915(d)**

[Doc. No. 28]

On April 26, 2011, Plaintiff Andre Jones, a state prisoner proceeding *pro se*, filed a “Motion to Have Amended Complaint Held in Abeyance,” which the Court construes as a motion for an extension of time to file an amended complaint. [Doc. No. 28.] On April 27, 2011, however, Jones filed an amended complaint, alleging prison officials failed to protect from a threat of serious bodily injury in

1 violation of his rights under the Eighth Amendment. [Doc. No. 29.] Accordingly, Jones's motion for
2 an extension of time is **DENIED AS MOOT**. [Doc. No. 28.]

3 In his motion for an extension of time, Jones suggests he may not have exhausted
4 administrative remedies before filing his amended complaint. To the extent this is an issue, the parties
5 can address it in later motions.

6 Unlike Jones's initial complaint, the Amended Complaint does not name any institutional
7 defendants. The Amended Complaint names only the following individual defendants: B. Cash;
8 Watson; Ridgeway; K. Kruz; K. Bradford; Dottaviano, and M. Davis, all alleged to be correctional
9 staff members residing in Los Angeles; and P. Cortez; J. Homer; M. Cavo; and Goff, all alleged to be
10 correctional staff members residing in San Diego.

11 The Clerk shall issue a summons upon only those Defendants named in the Amended
12 Complaint and forward it to Plaintiff along with a blank U.S. Marshal Form 285 for each of those
13 Defendants. In addition, the Clerk shall provide Plaintiff with a certified copy of this Order, and
14 certified copies of his Amended Complaint and the summons for purposes of serving each of those
15 Defendants. Upon receipt of this "IFP Package," Plaintiff is directed to complete the Form 285s as
16 completely and accurately as possible, and to return them to the United States Marshal according to the
17 instructions provided by the Clerk in the letter accompanying his IFP package. Thereafter, the U.S.
18 Marshal shall serve a copy of the Complaint and summons upon each Defendant as directed by
19 Plaintiff on each Form 285. All costs of service shall be advanced by the United States. See 28 U.S.C.
20 § 1915(d); FED. R. CIV. P. 4(c)(2).


21 Defendants are thereafter **ORDERED** to reply to the Amended Complaint within the time
22 provided by the applicable provisions of Federal Rule of Civil Procedure 12(a). See 42 U.S.C.
23 § 1997e(g)(2). Additionally, in the Amended Complaint, Plaintiff consents to the jurisdiction of a
24 magistrate judge. In replying to the Amended Complaint, Defendants should indicate whether they too
25 consent to magistrate judge jurisdiction over this action.

26 Plaintiff shall serve upon Defendants or, if appearance has been entered by counsel, upon
27 Defendants' counsel, a copy of every further pleading or other document submitted for consideration
28 of the Court. Plaintiff shall include with the original paper to be filed with the Clerk of the Court a

1 certificate stating the manner in which a true and correct copy of any document was served on
2 Defendants, or counsel for Defendants, and the date of service. Any paper received by the Court
3 which has not been filed with the Clerk or which fails to include a Certificate of Service will be
4 disregarded.

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6 **IT IS SO ORDERED.**

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8 **DATED:** 6/9/11

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10 IRMA E. GONZALEZ, Chief Judge
11 United States District Court
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